

REMARKS**A. Introduction**

In the non-final Office Action mailed on April 11, 2006, the Examiner rejected claim 52 under 35 U.S.C. § 101; and rejected claims 28-53 under 35 U.S.C. § 103(a) over Perkes (Pub. No. US 2003/0110503) in view of Omoigui (Pub. No. US 2003/0126136). Applicants herein amend claims 40 and 52 and cancel claim 53 to clarify the subject matter for which applicants seek protection. As a result, claims 28-52 are now pending. For the reasons discussed in detail below, applicants submit that the pending claims are now in condition for allowance.

B. Rejection Under 35 U.S.C. § 101

The Examiner rejected claim 52 under 35 U.S.C. § 101 because claim 52 recites a data structure, but does not "recite a data structure on a computer readable medium or hard disk. Applicants herein amend claim 52 to recite a "computer memory containing a data structure," and respectfully ask the Examiner to withdraw the rejection.

C. Rejections Under 35 U.S.C. § 103(a)

The Examiner rejected claims 28-53 under 35 U.S.C. § 103(a) over Perkes in view of Omoigui.

Perkes describes a media-on-demand framework that collects pre-categorized media of different types for presentation to a user. (pars. 0012, 0061) For example, there may be a predefined category for sports and a predefined subcategory for baseball that contains videos from baseball games. The system delivers the categorized media to users who have an interest in these categories.

Omoigui relates to an "intelligent, learning web" that uses "semantic data" to improve data retrieval. (pars. 0344, 0526) For example, a user may search a database

containing music files for, "all country songs that are duets." The system would "know" to retrieve songs performed by two artists and which artists perform country music.

In contrast, applicants' technology is directed to improving search results by automatically categorizing and attributing metadata to media objects based on their location relative to media objects that have metadata attributed to them. (par. 0039) For example, a user could decide that any media object found under the domain <http://www.cnn.com> should be classified as news because CNN primarily delivers news.

Claims 28 and 40 recite, among other things, "receiving user input designating a portion of a map of [a] data store ... as corresponding to [a] distinguished category," "automatically identifying a second media entity," and "based upon [being within the designated portion of the map or belonging to the distinguished category], automatically attributing metadata to the second media entity indicating that it belongs to the distinguished category." Perkes and Omoigui do not disclose, suggest, or teach the approach to attributing metadata recited in claims 28 and 40.

With respect to Perkes, the Examiner cites sections that describe storing media objects and attributed metadata (pars. 0044, 0063), presenting "content data" and media to a user using a "guide" (pars. 0065, 0228), and a hierarchical categorization structure (par. 0045), but does not reference any section describing "automatically attributing metadata to [media objects]". Because all of the media objects Perkes describes are pre-categorized, the system Perkes describes does not need to categorize or attribute metadata to media objects. Additionally, Perkes does not disclose, "receiving user input designating a portion of a map of [a] data store ... as corresponding to [a] distinguished category." The Examiner references a section of Perkes that includes receiving input from a user for selecting a display format for the guide. (par. 0065). This user input is neither related to the way metadata is attributed to media objects nor designating a portion of a data store.

The Examiner relies on Omoigui for teaching "how objects are categorized and utilized." However, Omoigui does not teach the categorization approach claims 28 and 40

recite. Omoigui describes, with little detail, three methods of media object categorization. Omoigui describes media objects "inherit[ing] all predicates from the root type." (par. 0579). The inheritance method described by Omoigui attributes multiple types to one object. For example, when a type is attributed to a particular media object, any types that are ancestors of that type are also automatically attributed to the object. In contrast, applicants' technology allows a single type to be automatically attributed to multiple media objects. With applicants' technology, users can designate areas that span multiple subcategories and are not limited to attributing metadata vertically through the hierarchy.

In addition to categorizing objects using inheritance, Omoigui describes using "XML Web Service Calls" or a "categorization engine." (pars. 0681, 0706). Omoigui, however, does not explain how these services categorize objects. Omoigui describes a Web Service as "representing black-box functionality that can be reused without worrying about how the service is implemented." (par. 0313). A categorization engine "take[s] a piece of text or XML ... and returns the categories ... that the text or XML belong to, along with categorization scores." Omoigui does not provide an example of how to implement a Web Service or categorization engine.

Omoigui also describes an "inference engine," which uses ongoing activity and "probabilistic inferences" to categorize objects. (pars. 0622-0628). The inference engine does not allow a user to "designate a portion of a map of [a] data store" and automatically associate metadata to new objects. Instead, the inference engine monitors the system to learn how the system uses an object in order to infer how to categorize the object. The inference engine, therefore, does not describe the approach to attributing metadata recited in claims 28 and 40.

Because Perkes and Omoigui fail to teach the approach to attributing metadata recited by claims 28 and 40, these claims are patentable over Perkes and Omoigui. Applicants respectfully request that these rejections be withdrawn.

Claims 29-39 are dependent on claim 28 and further recite additional elements that make them patentable over Perkes and Omoigui while claims 41-51 are dependent on claim 40 and further recite additional elements that make them patentable over Perkes and Omoigui. Applicants respectfully request that the rejection of these claims be withdrawn.

Claim 52 has been amended and now recites, "based on user input, designating a portion of a map of the data store containing the media entity as corresponding to the category" and "automatically associat[ing] the metadata with identified media entities belonging to the category." For the reasons stated above with respect to claims 28 and 40, applicants believe claim 52 is now in condition for allowance.

Additionally, according to the Manual of Patent Examining Procedure and controlling case law, the motivation to combine or extend prior art references under 35 U.S.C. § 103(a) cannot be based on mere common knowledge and common sense as to benefits that would result from such combination or modification. Instead, such motivation must be based upon specific teaching in the prior art, such as a specific suggestion in a prior art reference.

To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.

The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure.

In re Vaeck, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991). Manual of Patent Examining Procedure, § 2143 (emphasis added).

In contrast to this well-established standard, the motivation to combine Perkes and Omoigui in accordance with the claimed invention provided by the Examiner is based solely on the alleged beneficial results that would be produced by this combination, without identifying any motivation from the prior art that supports the extension as is required. Applicants accordingly request that the Examiner reconsider and withdraw this rejection. If the Examiner elects to maintain this rejection, however, applicants respectfully request that the Examiner explain with the required specificity where a suggestion or motivation to combine the references in the manner proposed by the Examiner can be found in the prior art.

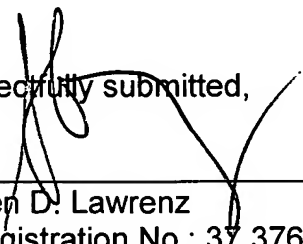
D. Conclusion

For the foregoing reasons, applicants believe the pending claims are now in condition for allowance and respectfully request a Notice of Allowance. If the Examiner has any questions, or believes a telephone conference would facilitate examination, the Examiner is encouraged to call the undersigned.

The Commissioner is hereby authorized to charge shortages or credit overpayment to our Deposit Account No. 50-0665, under Order No. 283108004US from which the undersigned is authorized to draw.

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Respectfully submitted,

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